

Senate Bill 22

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Conditions and partially eliminates pesticide applicator licensing exemption for persons engaged in maintenance of small or home lawns, shrubs or gardens. Allows fee for pesticide trainee certificate to be less than fee for pesticide applicator license.

A BILL FOR AN ACT

Relating to pesticides; amending ORS 634.106, 634.126 and 634.372.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 634.106 is amended to read:

634.106. ORS 634.112 to 634.126 and 634.146 *[shall]* **do** not apply to:

(1) Manufacturers of materials engaged in research or experimental work on pesticides.

(2) Persons engaged in the business of a pesticide operator or applicator only in the application of any pollenicide.

(3) Persons licensed as veterinarians under ORS chapter 686 who are engaged in the practice of veterinary medicine within the scope of their veterinary medicine practice and employees of licensed veterinarians when acting within the scope of their employment.

(4) A farmer or forestland owner applying pesticides, other than restricted-use pesticides, by use of equipment of the farmer or forestland owner for others on an occasional basis not amounting to a principal or regular occupation, if:

(a) The farmer does not publicly hold out as a pesticide applicator; and *[if]*

(b) The pesticides that are applied are furnished by the owner of the land *[on which such]* **to which the pesticides are applied.**

[(5) Persons who do not advertise or publicly hold themselves out as being in the business of applying pesticides but whose main or principal work or business is the maintenance of small or home lawns, shrubs or gardens.]

(5) Persons whose main or principal work or business is the maintenance of home lawns or gardens, if:

(a) **The persons do not advertise or publicly hold themselves out as being in the business of applying pesticides;**

(b) **The persons do not apply restricted-use pesticides;**

(c) **The persons do not use power-operated equipment to apply pesticides;**

(d) **The owner or occupant of property to which pesticide products are applied furnishes the pesticide products and any equipment used to make the application; and**

(e) **The owner or occupant of the property to which pesticide products are applied has instructed the persons on the proper and intended use of the pesticide product consistent**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **with the label directions.**

2 (6) Persons [*who do not advertise or publicly hold themselves out as being in the business of ap-*
3 *plying pesticides and*] whose principal activity or business as related to pesticides is selling pesti-
4 cides or selling or leasing equipment, **if the persons do not advertise or publicly hold themselves**
5 **out as being in the business of applying pesticides.**

6 (7) Railroads, to the extent that the application of pesticides is by their regular employees,
7 [*on*] **to** land or property under their ownership, supervision, control or jurisdiction, except that if
8 power-operated spray equipment is used for applying volatile herbicides, the application shall be
9 under the direct supervision of a licensed public applicator.

10 **SECTION 2.** ORS 634.126 is amended to read:

11 634.126. (1) In accordance with regulations promulgated by the State Department of Agriculture,
12 as provided in ORS 634.306 (1), the department shall issue or renew [*its*] **a** pesticide trainee's cer-
13 tificate if the applicant or certificate holder:

14 (a) Is at least 18 years of age;

15 (b) Is employed by a licensed pesticide operator;

16 (c) Is working under the direct supervision and control of a licensed applicator; and

17 (d) Is in compliance with the applicable provisions of this chapter and regulations promulgated
18 [*thereunder*] **under this chapter.**

19 (2) The fees for a pesticide trainee's certificate, or renewal [*thereof, shall be the same as*] **of a**
20 **pesticide trainee's certificate, may not exceed** the license fee for a pesticide applicator.

21 **SECTION 3.** ORS 634.372 is amended to read:

22 634.372. A person may not:

23 (1) Make false or misleading claims through any media, relating to the effect of pesticides or
24 application methods to be utilized.

25 (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless
26 pesticide or any pesticide inconsistent with its labeling.[, *or*]

27 (3) As a pesticide consultant or dealer, recommend or distribute [*such pesticides*] **a worthless**
28 **pesticide or any pesticide inconsistent with its labeling.**

29 [(3)] (4) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device
30 or equipment.

31 [(4)] (5) Perform pesticide application activities in a faulty, careless or negligent manner.

32 [(5)] (6) Refuse or neglect to prepare and maintain records required to be kept by the provisions
33 of this chapter.

34 [(6)] (7) Make false, misleading or fraudulent records, reports or application forms required by
35 the provisions of this chapter.

36 [(7)] (8) Operate pesticide applicators' apparatus, machinery or equipment without a licensed
37 pesticide applicator or certified private applicator performing the actual application, or supervising
38 [*such*] **the** application if [*such is*] performed by a pesticide trainee. This prohibition does not apply
39 to the operation of tractors, trucks or other vehicular equipment used only under the supervision
40 of a certified private applicator.

41 [(8)] (9) As a pesticide applicator:[,]

42 (a) Work or engage in the application of any classes of pesticides without first obtaining and
43 maintaining a pesticide applicator's license;[,]

44 (b) Apply pesticides that are not specifically authorized by [*such*] **a pesticide applicator's li-**
45 **cence.**

1 [(9)] (10) As a pesticide operator:[]

2 (a) Engage in the business of, or represent or advertise as being in the business of, applying
 3 pesticides [upon] to the land or property of another, without first obtaining and maintaining a pes-
 4 ticide operator’s license;[] *The operator also may not*

5 (b) Engage in a class of pesticide application business that is not specifically authorized by li-
 6 cense issued by the State Department of Agriculture; **or**[] *The operator also may not*

7 (c) Employ or use any person to apply or spray pesticides who is not a licensed pesticide
 8 applicator or pesticide trainee.

9 [(10)] (11) As a pesticide trainee, work or engage in the application of any class of pesticides
 10 without first obtaining and maintaining a pesticide trainee’s certificate and [is] **being** otherwise in
 11 compliance with the provisions of this chapter.

12 [(11)] (12) Act as, or purport to be, a pesticide dealer or advertise as [such] **a pesticide dealer**
 13 without first obtaining and maintaining a pesticide dealer’s license.

14 [(12)] (13) Act as, or purport to be, a pesticide consultant without first obtaining and maintain-
 15 ing a pesticide consultant’s license.

16 [(13)] (14) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricul-
 17 tural, horticultural or forest crops on land owned or leased by the person without first obtaining
 18 and maintaining a private applicator certificate.

19 [(14) *As a person described in ORS 634.106 (5), use power-driven pesticide application equipment*
 20 *or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed*
 21 *by the department.*]

22 (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

23 (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.

24 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been regis-
 25 tered as required by ORS 634.016.

26 (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
 27 arsenic or any highly toxic fluoride that is not distinctly colored.

28 (19) Distribute, sell or offer for sale any pesticide except in the manufacturer’s original unbroke-
 29 ken package.

30 (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted
 31 area:

32 (a) Without first obtaining a permit for [such] **the** application from the committee of the pro-
 33 tected or restricted area in which the application is to be made; **or**[] *The person also may not make*
 34 *such application*

35 (b) Contrary to the conditions or terms of [the permit so issued] **a permit described in para-**
 36 **graph (a) of this subsection.**

37 (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to
 38 plant damage as determined by the department, without first obtaining a permit for [such] **that** use
 39 as provided in ORS 634.322 (10).

40 (22) Sell, use or remove any pesticide or device subjected to a “stop sale, use or removal” order
 41 until the pesticide or device has been released [therefrom] **from the order** as provided in ORS
 42 634.322 (3).

43 (23) Fail to comply with any provision or requirement of sections 2 to 9, chapter 1059, Oregon
 44 Laws 1999, or rules adopted thereunder.

45 **SECTION 4.** ORS 634.372, as amended by section 18, chapter 1059, Oregon Laws 1999, and

1 section 4, chapter 307, Oregon Laws 2001, is amended to read:

2 634.372. A person may not:

3 (1) Make false or misleading claims through any media, relating to the effect of pesticides or
4 application methods to be utilized.

5 (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless
6 pesticide or any pesticide inconsistent with its labeling.[, or]

7 (3) As a pesticide consultant or dealer, recommend or distribute [*such pesticides*] **a worthless**
8 **pesticide or any pesticide inconsistent with its labeling.**

9 [(3)] (4) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device
10 or equipment.

11 [(4)] (5) Perform pesticide application activities in a faulty, careless or negligent manner.

12 [(5)] (6) Refuse or neglect to prepare and maintain records required to be kept by the provisions
13 of this chapter.

14 [(6)] (7) Make false, misleading or fraudulent records, reports or application forms required by
15 the provisions of this chapter.

16 [(7)] (8) Operate pesticide applicators' apparatus, machinery or equipment without a licensed
17 pesticide applicator or certified private applicator performing the actual application, or supervising
18 [*such*] **the** application if [*such is*] performed by a pesticide trainee. This prohibition does not apply
19 to the operation of tractors, trucks or other vehicular equipment used only under the supervision
20 of a certified private applicator.

21 [(8)] (9) As a pesticide applicator:[,]

22 (a) Work or engage in the application of any classes of pesticides without first obtaining and
23 maintaining a pesticide applicator's license;[, or]

24 (b) Apply pesticides that are not specifically authorized by [*such*] **a pesticide applicator's** li-
25 cense.

26 [(9)] (10) As a pesticide operator:[,]

27 (a) Engage in the business of, or represent or advertise as being in the business of, applying
28 pesticides [*upon*] **to** the land or property of another, without first obtaining and maintaining a pes-
29 ticide operator's license;[. *The operator also may not*]

30 (b) Engage in a class of pesticide application business that is not specifically authorized by li-
31 cense issued by the State Department of Agriculture; **or**[. *The operator also may not*]

32 (c) Employ or use any person to apply or spray pesticides who is not a licensed pesticide
33 applicator or pesticide trainee.

34 [(10)] (11) As a pesticide trainee, work or engage in the application of any class of pesticides
35 without first obtaining and maintaining a pesticide trainee's certificate and [*is*] **being** otherwise in
36 compliance with the provisions of this chapter.

37 [(11)] (12) Act as, or purport to be, a pesticide dealer or advertise as [*such*] **a pesticide dealer**
38 without first obtaining and maintaining a pesticide dealer's license.

39 [(12)] (13) Act as, or purport to be, a pesticide consultant without first obtaining and maintain-
40 ing a pesticide consultant's license.

41 [(13)] (14) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricul-
42 tural, horticultural or forest crops on land owned or leased by the person without first obtaining
43 and maintaining a private applicator certificate.

44 [(14) *As a person described in ORS 634.106 (5), use power-driven pesticide application equipment*
45 *or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed*

1 *by the department.]*

2 (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.

3 (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.

4 (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been regis-
5 tered as required by ORS 634.016.

6 (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing
7 arsenic or any highly toxic fluoride that is not distinctly colored.

8 (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbrot-
9 ken package.

10 (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted
11 area:

12 (a) Without first obtaining a permit for [*such*] **the** application from the committee of the pro-
13 tected or restricted area in which the application is to be made; **or**[. *The person also may not make*
14 *such application*]

15 (b) Contrary to the conditions or terms of [*the permit so issued*] **a permit described in para-**
16 **graph (a) of this subsection.**

17 (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to
18 plant damage as determined by the department, without first obtaining a permit for [*such*] **that** use
19 as provided in ORS 634.322 (10).

20 (22) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order
21 until the pesticide or device has been released [*therefrom*] **from the order** as provided in ORS
22 634.322 (3).

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